

of each claim in excess of 20, including unchallenged claims from which a challenged claim depends: \$200.00.

(4) In addition to the *Inter Partes* Post-Institution request fee, for requesting review of each claim in excess of 15, including unchallenged claims from which a challenged claim depends: \$400.00.

(b) On filing a petition for post-grant review or covered business method patent review of a patent, payment of the following fees are due:

(1) Post-Grant or Covered Business Method Patent Review request fee: \$12,000.00.

(2) Post-Grant or Covered Business Method Patent Review Post-Institution fee: \$18,000.00.

(3) In addition to the Post-Grant or Covered Business Method Patent Review request fee, for requesting review of each claim in excess of 20, including unchallenged claims from which a challenged claim depends: \$250.00.

(4) In addition to the Post-Grant or Covered Business Method Patent Review Post-Institution request fee, for requesting review of each claim in excess of 15, including unchallenged claims from which a challenged claim depends: \$550.00.

(c) On the filing of a petition for a derivation proceeding, payment of the following fees is due:

(1) Derivation petition fee: \$400.00.

(d) Any request requiring payment of a fee under this part, including a written request to make a settlement agreement available: \$400.00.

[78 FR 4291, Jan. 18, 2013, as amended at 80 FR 28565, May 19, 2015]

PETITION AND MOTION PRACTICE

§ 42.20 Generally.

(a) *Relief*. Relief, other than a petition requesting the institution of a trial, must be requested in the form of a motion.

(b) *Prior authorization*. A motion will not be entered without Board authorization. Authorization may be provided in an order of general applicability or during the proceeding.

(c) *Burden of proof*. The moving party has the burden of proof to establish that it is entitled to the requested relief.

(d) *Briefing*. The Board may order briefing on any issue involved in the trial.

§ 42.21 Notice of basis for relief.

(a) *Notice of request for relief*. The Board may require a party to file a notice stating the relief it requests and the basis for its entitlement to relief. A notice must include sufficient detail to place the Board and each opponent on notice of the precise relief requested. A notice is not evidence except as an admission by a party-opponent.

(b) *Filing and service*. The Board may set the times and conditions for filing and serving notices required under this section. The Board may provide for the notice filed with the Board to be maintained in confidence for a limited time.

(c) *Effect*. If a notice under paragraph (a) of this section is required:

(1) A failure to state a sufficient basis for relief may result in a denial of the relief requested;

(2) A party will be limited to filing motions consistent with the notice; and

(3) Ambiguities in the notice will be construed against the party.

(d) *Correction*. A party may move to correct its notice. The motion should be filed promptly after the party becomes aware of the basis for the correction. A correction filed after the time set for filing notices will only be entered if entry would serve the interests of justice.

§ 42.22 Content of petitions and motions.

(a) Each petition or motion must be filed as a separate paper and must include:

(1) A statement of the precise relief requested; and

(2) A full statement of the reasons for the relief requested, including a detailed explanation of the significance of the evidence including material facts, and the governing law, rules, and precedent.

(b) *Relief requested*. Where a rule in part 1 of this title ordinarily governs the relief sought, the petition or motion must make any showings required under that rule in addition to any showings required in this part.

§ 42.23

(c) *Statement of material facts.* Each petition or motion may include a statement of material fact. Each material fact preferably shall be set forth as a separately numbered sentence with specific citations to the portions of the record that support the fact.

(d) The Board may order additional showings or explanations as a condition for authorizing a motion (see § 42.20(b)).

§ 42.23 Oppositions and replies.

(a) Oppositions and replies must comply with the content requirements for motions and, if the paper to which the opposition or reply is responding contains a statement of material fact, must include a listing of facts that are admitted, denied, or cannot be admitted or denied. Any material fact not specifically denied may be considered admitted.

(b) All arguments for the relief requested in a motion must be made in the motion. A reply may only respond to arguments raised in the corresponding opposition or patent owner response.

[77 FR 48669, Aug. 14, 2012, as amended at 80 FR 28565, May 19, 2015]

§ 42.24 Page limits for petitions, motions, oppositions, and replies.

(a) *Petitions and motions.* (1) The following page limits for petitions and motions apply and include any statement of material facts to be admitted or denied in support of the petition or motion. The page limit does not include a table of contents, a table of authorities, a certificate of service, or appendix of exhibits or claim listing.

(i) Petition requesting *inter partes* review: 60 pages.

(ii) Petition requesting post-grant review: 80 pages.

(iii) Petition requesting covered business method patent review: 80 pages.

(iv) Petition requesting derivation proceeding: 60 pages.

(v) Motions (excluding Motions to Amend): 15 pages.

(vi) Motions to Amend: 25 pages.

(2) Petitions to institute a trial must comply with the stated page limits but may be accompanied by a motion to waive the page limits. The petitioner must show in the motion how a waiver

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of the page limits is in the interests of justice and must append a copy of proposed petition exceeding the page limit to the motion. If the motion is not granted, the proposed petition exceeding the page limit may be expunged or returned. Any other motion to waive page limits must be granted in advance of filing a motion, opposition, or reply for which the waiver is necessary.

(b) *Patent owner responses and oppositions.* The page limits set forth in this paragraph do not include a listing of facts which are admitted, denied, or cannot be admitted or denied.

(1) The page limits for a patent owner preliminary response to petition are the same as the page limits for the petition.

(2) The page limits for a patent owner response to petition are the same as the page limits for the petition.

(3) The page limits for oppositions are the same as those for corresponding motions.

(c) *Replies.* The following page limits for replies apply and include any statement of facts in support of the reply. The page limits do not include a table of contents, a table of authorities, a listing of facts which are admitted, denied, or cannot be admitted or denied, a certificate of service, or appendix of exhibits.

(1) Replies to patent owner responses to petitions: 25 pages.

(2) Replies to oppositions (excluding replies to oppositions to Motions to Amend): 5 pages.

(3) Replies to oppositions to Motions to Amend: 12 pages.

[77 FR 48669, Aug. 14, 2012, as amended at 80 FR 28565, May 19, 2015]

§ 42.25 Default filing times.

(a) A motion may only be filed according to a schedule set by the Board. The default times for acting are:

(1) An opposition is due one month after service of the motion; and

(2) A reply is due one month after service of the opposition.

(b) A party should seek relief promptly after the need for relief is identified. Delay in seeking relief may justify a denial of relief sought.